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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,965	01/28/2004	Michael Paul Guy	0275V-847/CO	5686

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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,965

Applicant(s)

GUY, MICHAEL PAUL

Examiner

Flemming Saether

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3,5-8 and 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9-13 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restriction

Applicant's election of group I, species B, with traverse is acknowledged. Claims 1, 2, 4, 9-13 and 19-23 read on the elected species accordingly, claims 3, 5-8 and 14-19 are withdrawn. Applicant's traversal is on the grounds that the additional consideration of species A, C, and D would not be a serious burden. In response, the examiner disagrees but, the argument is moot because there are currently no claims specific to species A, C or D. The claims which read on the elected species are generic to the species A, B, C and D.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 3,309,747). In the embodiment of Figs. 1-3, Smith discloses a blind rivet assembly comprising a tubular shank (18), a circular flange (16) having a conical undercut (at 26) and a stem (30) with a head (32). There also is discloses a cap (14) with a cavity with an undercut (at 42) being resiliently engageable with the undercut of the flange.

Claims 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US 4,904,133). In the embodiment of Figs. 10 and 11, Smith discloses a blind rivet assembly comprising a tubular shank (14), a flange having a domed shape (at 212) with and opposite planer surface and a conical undercut (not labeled) and a stem slidably received in the shank (22, see Fig. 1) with a head (20, see Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to claims 1, 2, 4, and 9 above, and further in view of Hill (US 4,601,624). Smith does not disclose the cap being formed of a resilient material. Hill discloses a to form a cap (24) out of a resilient material and further discloses the cap as having a recess (63) and a conical undercut surface (94 as best seen in Fig. 8) to engage with an undercut surface of a flange (at 48). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to make the cap of Smith of a resilient material as disclosed in Hill because the resilient material would result in a much simplified construction for the cap in that it would be formed as a unitary piece. The claimed dome shape is considered as merely an

obvious change is shape since there is no criticality to the shape of the flange being in the form of a dome shape.

Claims 11, 12, 13, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to claims 1, 10 and 21 above, and further in view of Race (US 1,449,779). Race discloses to alternatively form the cap of a fastener with securing formation with a pair of resilient arms (9) capable of securing a pipe. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of modified Smith with a pair of resilient arms as disclosed in Race in order to provide the device with greater utility such as for hanging pipes.

Conclusion

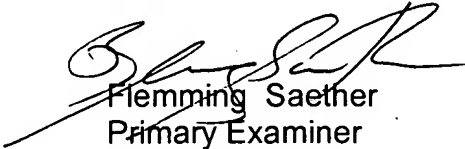
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Flemming Saether
Primary Examiner
Art Unit 3677